



# Finance Act 1993

## 1993 CHAPTER 34

### PART II

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER III

#### LLOYD'S UNDERWRITERS ETC.

##### *Members' trust funds*

#### **174 Premiums trust funds**

- (1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of a premiums trust fund of his.
- (2) Where an asset forms part of a premiums trust fund at the beginning of any underwriting year, for the purposes of the Income Tax Acts—
  - (a) the trustees of the fund shall be treated as acquiring it on that day, and
  - (b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.
- (3) Where an asset forms part of a premiums trust fund at the end of any underwriting year, for the purposes of the Income Tax Acts—
  - (a) the trustees of the fund shall be treated as disposing of it on that day, and
  - (b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.
- (4) Subsection (5) below applies where the following state of affairs exists at the beginning of any underwriting year or the end of any such year—

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*Status: This is the original version (as it was originally enacted).*

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- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988,
  - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
  - (c) securities have not been transferred in return, and
  - (d) section 129(3) of that Act applies to the transfer made by the trustees.
- (5) The securities transferred by the trustees shall be treated for the purposes of subsections (2) and (3) above as if they formed part of the premiums trust fund at the beginning or (as the case may be) the end of the underwriting year concerned.
- (6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a member’s premiums trust fund at the beginning or end of any underwriting year if—
- (a) the member is not domiciled in the United Kingdom at any time in the year, and
  - (b) he is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year.
- (7) In this section—
- “FOTRA securities” has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);
  - “non-resident United Kingdom trader” shall be construed in accordance with subsection (5) of that section;
  - “underwriting year” does not include the year 1993 or any earlier underwriting year.

## **175 Special reserve funds**

- (1) If arrangements are made by the Council of Lloyd’s which—
- (a) enable such a special reserve fund as is referred to in Part I of Schedule 20 to this Act to be set up in relation to each member; and
  - (b) comply with the requirements of that Part and are approved by the Board,
- the provisions of that Part relating to taxation shall have effect in relation to any special reserve fund of a member set up under the arrangements.
- (2) The arrangements may from time to time be varied with the consent of the Board.
- (3) If, after giving notice of their intention to do so to the Council of Lloyd’s, the Board cancel the approval which they have given with respect to the arrangements, paragraph 3 of Schedule 20 to this Act shall not apply, in the case of any member, to any year of assessment after the year of assessment in which the approval is cancelled.
- (4) The provisions of Part II of Schedule 20 to this Act shall have effect as respects the winding up of any special reserve fund which—
- (a) was set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988; and
  - (b) belongs to a member for whom a special reserve fund may be set up under the arrangements mentioned in subsection (1) above.

## **176 Ancillary trust funds**

- (1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund of his.
- (2) The cost of acquisition and the consideration for the disposal of assets forming part of an ancillary trust fund—
  - (a) shall be left out of account in computing for the purposes of income tax the profits or losses of the member’s underwriting business; and
  - (b) accordingly, shall not be excluded for the purposes of capital gains tax under section 37 or 39 of the Gains Tax Act.
- (3) None of the following provisions (which apply where an individual entitled to securities dies), namely—
  - (a) subsections (1) to (4) of section 721 of the Taxes Act 1988 (accrued income scheme);
  - (b) paragraph 7(2) of Schedule 4 to that Act (deep discount securities);
  - (c) paragraph 7(1) of Schedule 11 to the Finance Act 1989 (deep gain securities); and
  - (d) paragraph 16(1) of Schedule 10 to the Finance Act 1990 (convertible securities),shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.
- (4) In a case where subsection (3)(a) above applies, the deceased’s personal representatives shall be treated for the purposes of sections 710 to 728 of the Taxes Act 1988 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.